

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SAMUEL E. OWEN and his wife,	§	
LISA OWEN,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
	§	
V.	§	CASE NO. 4:12cv712
	§	Judge Clark/Judge Mazzant
AMERICA'S SERVICING COMPANY	§	
and WELLS FARGO BANK, N.A.,	§	
	§	
<i>Defendants.</i>	§	

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On April 3, 2013, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' Motion to Dismiss Plaintiffs' Petition [Doc. #9] be granted in part and denied in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court.

It is, therefore, **ORDERED** that Defendants' Motion to Dismiss Plaintiffs' Petition [Doc. #9] is **GRANTED** in part, and plaintiffs' claims for breach of the implied duty of good faith and fair

dealing and fraud claims are dismissed. The motion is denied as to the remaining claims for breach of contract.

So **ORDERED** and **SIGNED** on April 26, 2013.



Ron Clark, United States District Judge